

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MICHAEL ALLAHRAE FOX,

Plaintiff,

v.

ERNEST ZEIGLER,

Defendant.

Case No. 1:20-cv-00290-DAD-BAK (GSA) (PC)

**ORDER WITHDRAWING FINDINGS
AND RECOMMENDATIONS**

(ECF No. 56)

Plaintiff Michal Allahrea Fox is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action filed under 28 U.S.C. § 1983. As explained in the Court's first informational order, a party appearing *pro se* must keep the Court advised of his current address. (ECF No. 5 at ¶¶ VIII(A).) Under the Local Rules, if mail directed to a *pro se* plaintiff at his address of record is returned by the U.S. Postal Service and the plaintiff fails to update his address within sixty-three (63) days, the Court may dismiss his action for failure to prosecute. L.R. 183(b); *accord* (ECF No. 5 at ¶¶ VIII(B)).

On October 28, 2021, the Court served on Plaintiff an order of clarification to a different address: California Health Care Facility, P.O. Box 213040, Stockton, CA 95213 ("Stockton address") (ECF No. 45.) A notice of temporary magistrate judge referral and an order denying Plaintiff's motion to appoint counsel were served on Plaintiff at this address. (ECF Nos. 50, 53.) Presumably Plaintiff received the order and the notice since they were not returned to the Court as

1 undeliverable. The Court docket lists this Stockton address as Plaintiff's current address.

2 On January 12, 2022, the Court entered an order regarding pending recusal, which was
3 served on the Plaintiff the same day to the Stockton address. (ECF No. 52.) On February 2,
4 2022, the order was returned by the U.S. Postal Service as "undeliverable, not deliverable as
5 addressed."

6 On February 1, 2022, the Court issued an order disqualifying the district judge and
7 reassigning the case. (ECF No. 55.) On the same day, this order was served on Plaintiff to the
8 Stockton address. On February 14, 2022, the order was returned as "undeliverable, not
9 deliverable as addressed."

10 After the passage of more than sixty-three days, Plaintiff had not filed a notice of change
11 of address as required by the Court's first informational order and Local Rule 183(b). Therefore,
12 on April 16, 2022, the Court submitted findings and recommendations to dismiss this action
13 without prejudice for Plaintiff's failure to obey a court order, failure to comply with the Local
14 Rules, and failure to prosecute. (ECF No. 56.)

15 On May 2, 2022, Plaintiff filed objections to the findings and recommendations. (ECF
16 No. 57.) Plaintiff advises that he had filed a notice of change of address advising that his new
17 address is P.O. Box 3466, Corcoran, CA 93212, (ECF No. 15), and he had previously received
18 several court orders at this Corcoran address. Therefore, Plaintiff properly filed a change of
19 address as required and he is not subject to any sanctions.

20 Accordingly, the Court ORDERS that:

- 21 1. The Court's findings and recommendations of April 16, 2022, (ECF No. 56), are
22 hereby WITHDRAWN;
- 23 2. The Clerk is directed to correct the court record to reflect Plaintiff's current address at
24 P.O. Box 3466, Corcoran, CA 93212; and

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- 27 3. The Clerk is directed to re-serve on the Plaintiff the order regarding pending recusal,
28 (ECF No. 52), and the order disqualifying district judge and re-assigning case, (ECF

No. 55).

IT IS SO ORDERED.

Dated: **June 2, 2022**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE